

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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MICHAEL GULINO and	:	<u>FOR ELECTRONIC PUBLICATION</u>
CHRISTOPHER FERRY,	:	<u>ONLY</u>
individually and on behalf of others	:	
similarly situated,	:	
	:	<u>AMENDED ORDER</u> ¹
	:	06-CV- 2810 (JG) (AKT)
Plaintiffs,	:	
	:	
-against-	:	
	:	
SYMBOL TECHNOLOGIES, INC.,	:	
	:	
Defendant.	:	
-----	X	

FINAL ORDER APPROVING SETTLEMENT AND ATTORNEYS' FEES AND COSTS

WHEREAS, an action entitled Michael Gulino and Christopher Ferry,
individually and on behalf of others similarly situated v. Symbol Technologies, Inc., Civil Action
No. 06-CV-2810 (the "Lawsuit"), is currently pending before this Court; and

WHEREAS, the parties have made an application, pursuant to 29 U.S.C. §
216(b), for an order approving a settlement of the claims alleged in the Lawsuit, in accordance
with a Settlement Agreement and Release dated July 21, 2008 (the "Settlement Agreement"),
which, together with the exhibits annexed thereto, sets forth the terms and conditions for a
proposed settlement of the Lawsuit against Defendant and for dismissal of the Lawsuit against
Defendant with prejudice upon the terms and conditions set forth therein; and

WHEREAS, the Plaintiffs have made an application, pursuant to 29 U.S.C. §
216(b), for an order approving reasonable attorneys' fees and costs; and

WHEREAS, there has been no objection to the Settlement Agreement or

attorneys' fees and costs; and

WHEREAS, the Court has conducted a hearing (the "Fairness Hearing") on October 21, 2008, at the United States District Court, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York 11201 to consider: (1) final approval of the proposed Settlement; (2) final approval of the Plan of Allocation; (3) Class Counsel's fee and cost application; and (4) any objections that have been filed;

The Court, having considered the Settlement Agreement and the exhibits annexed thereto; Plaintiffs' Notice of Motion, including Plaintiffs' Brief in Support of Agreed Upon Costs and Fees, and the exhibits annexed thereto; the arguments of counsel and the pleadings on file; hereby **APPROVES** the Settlement, and accordingly;

IT IS ON THIS 22nd DAY OF OCTOBER, 2008 HEREBY ORDERED AS FOLLOWS:

1. The Court hereby approves the settlement set forth in the Settlement Agreement as being fair, just, reasonable and adequate and in the best interest of the Named Plaintiffs and each Settlement Class Member as described in the Settlement Agreement.
2. The Court hereby approves the settlement share amount that each Settlement Class Member will receive as listed in the attached Exhibit 1.
3. Settlement shares shall be sent to all Settlement Class Members who filed their Consent to Opt-in and Claim Form to Participate in Settlement within thirty (30) calendar days of the date of this Order, provided that no appeal is filed.
4. The Court hereby approves the reasonable attorneys' fees and costs in the

agreed upon amount of \$80,000.00 to Class Counsel. There has been no objection to attorneys' fees and costs. Attorneys' fees and costs shall be sent to Class Counsel within thirty (30) calendar days of the date of this Order, provided that no appeal is filed.

5. The Court finds that the Class Notice and methodology implemented pursuant to this Court's Order directing Notice to the Class, setting deadlines for Objections, setting the Fairness Hearing, certifying Class Counsel, and Preliminarily Approving the Settlement dated July 31, 2008 complied with Fed. R. Civ. P. 23(e) in that it provided notice to all members of the Class through a reasonable method. The Court finds that the Class Notice and methodology fully complied with all applicable legal requirements, and the Due Process Clause of the Constitution of the United States.

6. The Court finds that, although Notice and an opportunity to object were provided, no formal objections to the Settlement Agreement were filed.

7. The Court finds that Class Counsel and the Class representatives adequately represented the Class for purposes of entering into and implementing the Settlement.

8. The Lawsuit is hereby dismissed on the merits and with prejudice.

9. All Settlement Class Members, including the Named Plaintiffs, are permanently barred from prosecuting against any Released Parties any of the Released Claims, and those claims are dismissed with prejudice to the extent permitted by law.

10. The Court has jurisdiction to enter this Order. Without in any way affecting the finality of this Order, this Court hereby retains jurisdiction as to all matters relating to interpretation of this Order.

11. Neither this Order nor the Settlement Agreement, may be construed as, or may be used as an admission by Defendant of the validity of any claim of actual or potential fault, wrongdoing or liability whatsoever. Entering into or carrying out the Settlement Agreement and any negotiations or proceedings relating to the Settlement shall not in any event be construed as, or deemed to be evidence of, an admission or concession of Defendant and shall not be offered or received into evidence in any action or proceeding against any party hereto in any court, administrative agency or other tribunal for any purpose whatsoever, other than as evidence of the Settlement Agreement.

Based upon these findings, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED, that the Settlement is APPROVED, and judgment in accordance with this Order shall be entered.

s/John Gleeson

JOHN GLEESON
United States District Judge

Dated: Brooklyn, NY
October 22, 2008

¹ This order amends paragraph 2 of the order entered on October 24, 2008 to reference the exhibit which properly lists the settlement class and their respective settlement shares.

EXHIBIT 1

Name	Total Damages	Amount Each Settlement Class Member Will Receive
1 Birkbeck, Alan R.	\$9,637.84	\$7,296.26
2 Caporino, Robert	\$3,191.82	\$2,416.34
3 Carlo, William	\$2,344.39	\$1,774.81
4 Currie, Janine A.	\$14,738.65	\$11,157.79
5 Dumont, Bertrand M.	\$907.00	\$686.64
6 Enzmann, Brad A.	\$331.52	\$250.97
7 Esatto, Joseph C.	\$9,230.61	\$6,987.97
8 Ferry, Christopher J.	\$75,842.30	\$57,415.86
9 Gabriellini, Achille E.	\$3,479.11	\$2,633.84
10 Greer, Lance C.	\$10,460.41	\$7,918.98
11 Gullino, Michael A.	\$67,262.55	\$50,920.63
12 Hayes, Edward F.	\$3,550.45	\$2,687.84
13 Humpf, John A.	\$210.24	\$159.16
14 Hunt, Daniel	\$21,790.99	\$16,496.72
15 Jarrett, Thomas C.	\$178.25	\$134.94
16 Kaiser, Randolph J.	\$7,743.70	\$5,862.31
17 Kilthau, Paul E.	\$12,626.50	\$9,558.80
18 Laser, Howard A.	\$11,518.23	\$8,719.79
19 Locascio, John A.	\$5,634.35	\$4,265.45
20 McCullagh, John F.	\$2,293.76	\$1,736.47
21 Newman, Gary R.	\$360.71	\$273.07
22 Noglewich, Richard B.	\$1,683.07	\$1,274.15
23 Paradiso, John M.	\$19,486.60	\$14,752.19
24 Rallatos, Demetrios	\$790.05	\$598.10
25 Rothenberg, Anna - Maria	\$10,598.69	\$8,023.66
26 Savarese, Donald	\$21,997.60	\$16,653.13
27 Sobel, Glenn	\$2,375.20	\$1,798.13
Totals		\$242,454.00